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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,864	12/29/2004	Graeme Andrew Jackson	66904-0001	9288

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EXAMINER	
WAITS, ALAN B	

ART UNIT	PAPER NUMBER
3656	

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01/13/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/519,864	JACKSON, GRAEME ANDREW	
	Examiner	Art Unit	
	ALAN B. WAITS	3656	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 November 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *28,30-35,37-43,45,47,48,50,51,53,55,56 and 58-72* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *28,30-35,37-43,45,47,48,50,51,53,55,56 and 58-72* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *29 December 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

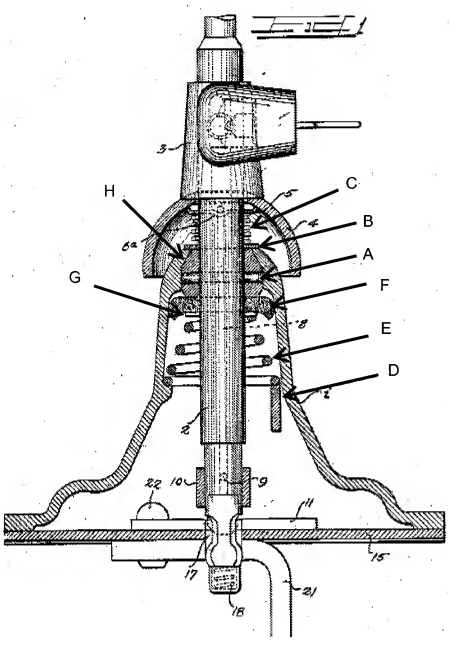
2. Claims 28, 30-35, 37-43, 45, 47, 48, 50, 51, 53, 56, 58-62, 64, and 68 are rejected under 35 U.S.C. 102(b) as being anticipated by Blood et al. USP 1780898.

Blood discloses a similar device comprising:

Re clm 28:

- a housing (i and 4, below)
- a lever (2, below) having a longitudinal axis
- said lever being at least partially disposed within said housing (as shown below)
- a pivoting member (A, see below) in operational communication with said lever [being adapted to facilitate pivoting of said lever into a plurality of positions] (the member A allows pivoting inside the cup of the housing, fig below)
- a biasing member (H, B, C, and 5; below and fig 2) disposed proximate said lever
- said biasing member includes a first element (H, fig 2) and a second element (B, fig below) selectively engaging said first element

- said first element disposed between said pivoting member and said second element (as shown below)
- said second element displaceable in a direction substantially parallel to said longitudinal axis of said lever (B slides up and down along 2, fig below)
- a third element (5, below) axially fixed to said lever relative to said longitudinal axis
- a biasing element (C, below) disposed intermediate said second element and said third element
- said second element disposed between said first element and said biasing element (fig below)
- [said biasing member applying a biasing force to said lever moving said lever into at least one biased position] (as element C biases the lever into a biased position, fig below)



Re clm 30:

- Said biasing member is operable to bias said lever into at least one baised neutral position (the biasing member is biasing the lever in the neutral position as the spring is always there, fig above)

Re clm 31:

- Said biasing member is disposed on said lever coaxially therewith

Re clm 32:

- Said biasing member is arranged relative to said lever such that said biasing force operates in a generally non-transverse direction relative to said longitudinal axis of said lever (fig above)

Re clm 33:

- Said biasing member applies a biasing force operable to oppose displacement of said lever in any direction (fig above)

Re clm 34:

- Said housing includes a longitudinal axis (along length of 2, fig above)
- Said biasing member arranged relative to said housing such that said biasing force is applied in a direction of said longitudinal axis of said housing (spring C applies force in a direction along the longitudinal axis of 2, fig above)

Re clm 35:

- In a biased position, said longitudinal axis of said lever is generally parallel to a direction of said biasing force (spring C applies force in a direction along the longitudinal axis of 2, fig above)

Re clm 37:

- Said lever extends through said first element, said second element, said third element, and said biasing element to form a generally coaxial arrangement therewith (fig above)

Re clm 38:

- Said biasing element is a spring (C is a spring, fig above)

Re clm 39:

- Said first element is adapted to engage with a stop means (shape of cup inside i, fig 2)

Re clm 40:

- Said stop means is operable to prevent pivotal displacement of said first element in at least one direction (prevents H from pivoting relative to i, fig above)

Re clm 41:

- Said stop means is disposed on an inner wall of said housing (inside of i, fig above)

Re clm 42:

- Said stop means includes a region of reduced diameter of said inner wall (top of i is smaller than bottom, fig above)

Re clm 43:

- said stop means is disposed on said lever (cup shaped housing portion is on 2, fig above)

Re clm 45:

- a second biasing member (F, G, E, and 10; fig above)
- said second biasing member includes a fourth element (G, fig above) and a fifth element (F, fig above) selectively engaging said fourth element
- said fifth element disposed between said pivoting member and said fourth element
- said fifth element displaceable in a direction substantially parallel to said longitudinal axis of said lever (moves along the axis that runs the length of 2, fig above)
- a sixth element (10, fig above) axially fixed to said lever relative to said longitudinal axis
- said second biasing element (E, fig above) disposed intermediate said fifth element and said sixth element
- [said second biasing member applying a biasing force to said lever moving said lever into at least one biased position] (spring E biases into a center/neutral position, fig above)

Re clm 47:

- Said pivoting member is disposed on the lever between said biasing member and said second biasing member (fig above)

Re clm 48:

- Said pivoting member further comprises a spherical element (H, fig above) disposed in a retaining cup
- Said spherical element slidably engaging said retaining cup (fig above)

Re clm 50:

- Said spherical element is fixed to said lever (by A, fig above) thereby forming a pivot point on said lever

Re clm 51:

- Said spherical element is fixed to said lever by a retaining pin (A, fig above)

Re clm 53:

- Said lever extends through said spherical element to form an arrangement generally coaxial there with (fig above)

Re clm 56:

- A housing (i and 4, fig above) having a housing longitudinal axis (along length of 2, fig above)
- A retaining cup (where H fits into i, fig above) disposed within said housing
- A lever having a first end (top of 2, above), a second end (bottom of 2, above), and a lever longitudinal axis (along length of 2, above)
- Said lever being at least partially disposed in said housing (as shown above)
- A pivoting member (A, see above) slidably disposed in said retaining cup and being in operational communication with said lever
- [said pivoting member being adapted to facilitate pivoting of said lever into a plurality of positions]
- a biasing member (B, 5, H, C; above) disposed proximate said lever

- said biasing member includes a first element (H, fig 2) and a second element (B, fig above)
- said first element disposed between said pivoting and said second element (above)
- said second element displaceable in a direction substantially parallel to said longitudinal axis of said lever (B slides up and down relative to 2, fig above)
- a third element (5, above) fixed relative to said lever
- a biasing element (C, above) disposed intermediate said second element and said third element
- said second element disposed between said first element and said biasing element (above)
- [said biasing member applying a biasing force to said lever moving said lever into at least one predetermined position] (as element C biases the lever into a biased position, fig below)

Re clm 58:

- Said lever extends through said first element, said second element, said third element, and said biasing element to form a generally coaxial arrangement therewith (above)

Re clm 59:

- Said first element is adapted to engage with a stop member (shape of cup inside i, fig above)

Re clm 60:

- Said stop member prevents pivotal displacement of said first element in at least one direction (prevents H from pivoting relative to i, fig above)

Re clm 61:

- Said stop member is disposed on an inner wall of said housing (inside of i, fig above)

Re clm 62:

- Said stop member is in operation communication with said lever (above)

Re clm 64:

- Said second and first elements slidably engage said lever (fig above)

Re clm 66:

- Said biasing element exerts a biasing force against said first and third elements urging the two elements away from one another (C urges H and 5 away from each other, above)

Re clm 68:

- Said second element slidably engages said lever and said biasing member applies a biasing force to said second element urging said second element into contact with said first element (C urges B into contact with H, above)

3. Claims 28, 65, 67, and 69-72 rejected under 35 U.S.C. 102(b) as being anticipated by Simmons USP 4333360.

Simmons discloses a similar device comprising:

Re clm 28:

- a housing (41, fig 3)
- a lever (30, fig 3) having a longitudinal axis
- said lever being at least partially disposed within said housing (as shown below)
- a pivoting member (34, fig 3) in operational communication with said lever [being adapted to facilitate pivoting of said lever into a plurality of positions] (element 34 allows 30 to pivot about 26, fig 3)
- a biasing member (46, 60, 38 and 58; fig 3) disposed proximate said lever
- said biasing member includes a first element (38, fig 3) and a second element (58, fig 3) selectively engaging said first element
- said first element disposed between said pivoting member and said second element (as shown in fig 3)
- said second element displaceable in a direction substantially parallel to said longitudinal axis of said lever (58 moves up and down substantially parallel to the lever, fig 3)
- a third element (46, fig 3) axially fixed to said lever relative to said longitudinal axis
- a biasing element (60, fig 3) disposed intermediate said second element and said third element
- said second element disposed between said first element and said biasing element (fig 3)

- [said biasing member applying a biasing force to said lever moving said lever into at least one biased position] (the biasing member forces said lever into a center/neutral position, fig 3)

Re clm 69:

- said lever is pivotable between a first position and a second position (moving left and right in fig 3)
- said second element slidably engaging said lever (58 slides up and down and engages the lever through 38, fig 3)
- said second element including a first region (element 58 on the right, fig 3) engaging said first element when said lever is pivoted to said first position (when the lever is shifted to the left, 38 tilts counter clockwise with it while engaging the right 56, fig 3)
- said first region being disengaged from said first element when said lever is pivoted to said second position (when the lever is shifted to the right, 38 tilts clockwise and disengages 58, fig 3)

Re clm 65:

- said second element is displaced axially along a longitudinal length of said lever when said lever is pivoted to at least one of said first and second positions (when the lever is tilted left, 58 moves along a longitudinal length of said lever, fig 3)

Re clm 67:

- said second element selectively engages said third element when said lever is pivoted to at least one of said first and second positions (58 engages 46 through element 41, fig 3)

Re clm 70:

- said second element includes a second region (element 58 on the left, fig 3) engaging said first element when said lever is pivoted to said second position
- the second region being disengaged from said first element when said lever is pivoted to said first position (when the lever is tilted to the left, the left 58 is disengaged, fig 3)

Re clm 71:

- said second element is at least partially disposed around said lever (the 58s are on both sides of the lever, fig 3)

Re clm 72:

- said first and second regions of said second member simultaneously engage said first member when said lever is pivoted to a position between said first and second positions (as shown in the state of fig 3, the first element engages both 58s, fig 3)

Regarding the functional recitation(s) in the claim(s) above denoted by the "[ ]" the examiner notes while features of an apparatus may be recited either structurally or functionally, claims directed to >an< apparatus must be distinguished from the prior art in terms of structure rather than function. The reference discloses all the claimed structural limitations and therefore anticipates the claim. See MPEP 2114. Additionally, the apparatus is capable of performing the claimed functions.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 55 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blood et al USP 1780898 as applied to claims 28 and 56 above, and in view of Kessmar USP 4104929.

Blood discloses all the claimed subject matter as described above.

Blood does not disclose a pivoting member comprising a plurality of pins to engage with each other to form a pivotable arrangement (re clm 55 and 63).

Kessmar teaches a pivoting member (42, fig 2) comprising a plurality of pins (55, 49, fig 2) adapted to engage with each other to form a pivotable arrangement for the purpose of providing a secure fit (cl 4, lines 3-9).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Blood and use a pivoting member comprising a plurality of pins adapted to engage with each other to form a pivotable arrangement for the purpose of providing a secure fit.

Response to Arguments

3. Applicant's arguments filed November 4, 2008 have been fully considered but they are not persuasive.

Re the General Statement:

The rejection above includes further detail explaining the inherency of the functional language of the claims in the prior art.

Re 102, section A:

It should be noted that the interpretation of the prior art has changed. Since the majority of the elements in this argument have changed, applicants arguments regarding claim 28 are now rendered moot.

Re 102, section B:

Applicant's arguments are once again moot, as the majority of the elements in this argument have changed. The examiner would like to further point out, however, that as the lever 2 is shifted about the pin A, that one side of the spring C is compressed more than the opposing side (due to B not pivoting with the lever as applicant has agreed in his arguments). This difference in spring compression would bias the lever into a center/neutral position.

Re 102, section D:

Applicant argues that H is not slidably disposed within the retaining cup. The examiner disagrees. H either slides up and down relative to the housing to allow shifting or it slides inside of the retaining cup of the housing to allow shifting.

Applicant's arguments are once again moot, as the majority of the elements in this argument have changed.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALAN B. WAITS whose telephone number is (571)270-3664. The examiner can normally be reached on Monday through Friday 7:30 am to 5 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alan B Waits/
Examiner, Art Unit 3656

/Richard WL Ridley/
Supervisory Patent Examiner, Art Unit 3656